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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,395	12/19/2005	Francois Dronne	5284-120PRCE	8482
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Thomas Langer, Esq. Cohen, Pontani, Lieberman & Pavane Suite 1210 551 Fifth Avenue New York, NY 10176				
EXAMINER				
WENDELL, ANDREW				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/537,395

**Applicant(s)**

DRONNE ET AL.

**Examiner**

ANDREW WENDELL

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-10 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/17/2009 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-5, 10, and 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Choksi (US Pat Pub# 2005/0250509).

Regarding claim 1, Choksi teaches quality of service management method in a packet mode mobile communication network (Fig. 1), characterized in that, in order for a service to be executed by a subscriber to the network to which a data stream corresponds, determining a set of quality of service parameters including at least one first quality of service parameter corresponding to a subscriber priority (Sections 0009,

0035, and 0040; priority level of subscriber unit) and at least one second quality of service parameter related to a type of service (Sections 0009, 0035, and 0040, bandwidth services), wherein the set of quality of service parameters define characteristics of the data stream over the network (Sections 0009, 0035, and 0040, both service parameters are define the data stream characteristics); determining an overall priority level (Sections 0009, 0035, and 0040, whether to grant requested bandwidth for the session based on bandwidth available and priority level of subscriber) for processing the data stream based on a value of the at least one first quality of service parameter (Sections 0009, 0035, and 0040, priority level of subscriber unit) and a value of the at least one second quality of service parameter (Sections 0009, 0035, and 0040, bandwidth services), the value of the overall priority level alone indicating a priority for accessing network resources to execute the service by the subscriber (Sections 0009, 0035, and 0040, whether to grant requested bandwidth for the session); and determining at least one quality of service process (bandwidth) to be applied to the data stream based on the overall priority level, the quality of service process differentiating access to network resources (Sections 0009, 0035, and 0040).

Regarding claim 3, Choksi teaches a stage that consists in, in the case of a network overload, applying the quality of service process to the data stream, taking into account the overall priority level related to this data stream and the overall priority levels related to the data streams that correspond to other subscribers found on the network (Sections 0009, 0035, and 0040, takes in account of overall bandwidth).

Regarding claim 4, Choksi teaches a data stream is determined according to a table (Sections 0009, 0035, and 0040) that specifies an overall priority level value for each combination of the two quality of service parameters that corresponding, respectively, to a subscriber priority level and a service type (Sections 0009, 0035, and 0040).

Regarding claim 5, Choksi teaches that the network is managed by an operator, and the overall priority levels can be configured by the network operator (Fig. 2).

Regarding claim 10, Choksi teaches the execution of a service by a subscriber of the network to which a data stream corresponds, in order to determine an overall priority level for processing the data stream according to at least one quality of service parameter that corresponds to a subscriber priority level and at least one quality of service parameter related to the type of service (Sections 0009, 0035, and 0040); and determine at least one quality of service process to be applied to the data stream based on the overall priority level, the quality of service process differentiating access to network resources (Sections 0009, 0035, and 0040).

Regarding claim 12, Choksi teaches a quality of service process to a data stream, whilst taking into account the overall priority level for processing the data stream and the overall priority levels associated to the data streams that correspond to other subscribers on the network (Sections 0009, 0035, and 0040, bandwidth allocation).

Regarding claim 13, Choksi teaches a behavior table that specifies a value of the overall priority level for each combination of the two quality of service parameters

corresponding, respectively, to a subscriber priority level and a type of service (Sections 0009, 0035, and 0040, subscriber priority and bandwidth request).

Regarding claim 14, Choksi teaches that the network is managed by an operator, and the overall priority levels can be configured by the network operator (Fig. 2).

Regarding claim 15, Choksi teaches service node of a core network (Fig. 1) that ensures the management of the communication link with the access network (Fig. 2).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi (US Pat Pub# 2005/0250509) in view of Immonen et al. (US Pat# 7,010,305).

Regarding claim 7, Choksi teaches the limitations in claim 1. Choksi fails to teach a 3GPP telecommunications standard.

Immonen teaches the quality of service parameter that corresponds to the subscriber priority level used for determining the overall priority level includes one of the parameters of the group that includes: the "Allocation Retention Priority" quality of service parameter (Col. 8 line 57), the quality of service sub-parameters and parameters are defined within the framework of the 3GPP telecommunications standard (Col. 10 lines 30-40).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate 3GPP telecommunications standard as taught by Immonen into Choksi's quality of service management in order to improve assignment of values of service attributes (Col. 3 lines 33-36).

Regarding claim 8, the combination including Immonen teaches the quality of service parameter related to the type of service used to determine the overall priority level includes the "Traffic Class" quality of service parameter (Col. 9 lines 14-32), defined within the framework of the 3GPP telecommunications standard (Col. 10 lines 30-40).

Regarding claim 9, the combination including Immonen teaches the quality of service parameter related to the type of service used to determine the overall priority level further includes the "Traffic Handling Priority" quality of service parameter (Col. 9 lines 14-32), defined within the framework of the 3GPP telecommunications standard to associate a priority level to the data stream on the network when the data stream corresponds to an interactive type service (Col. 10 lines 30-40).

6. Claims 6 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi (US Pat Pub# 2005/0250509) and further in view of Jouppi et al. (US Pat# 7,031,718).

Regarding claim 6, Choksi teaches the limitations in claim 1. Choksi fails to teach a service node and an access network radio resource.

Jouppi's method for selecting a quality of service teaches a service node (GGSN, Fig. 1a) of the core network that ensures the interconnection with an external network, and a management node of the access network radio resources (BTS and BSC, Fig. 1a).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a service node and an access network radio resource as taught by Jouppi into Choksi's quality of service management in order to improve quality of service (Col. 6 lines 19-25).

Regarding claim 16, the combination including Jouppi teaches a service node (GGSN, Fig. 1a) of a core network (Fig. 1a) that ensures the interconnection with an external network.

Regarding claim 17, the combination including Jouppi teaches a radio resource management node (BTS and BSC, Fig. 1) of an access network.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 3-10, and 12-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW WENDELL whose telephone number is (571)272-0557. The examiner can normally be reached on 8:00-5:30 M-F.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Wendell/  
Examiner, Art Unit 2618

2/8/2010